

AMENDED IN ASSEMBLY SEPTEMBER 4, 2003

AMENDED IN ASSEMBLY AUGUST 28, 2003

**SENATE BILL**

**No. 412**

**Introduced by Senator Sher**

February 20, 2003

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An act to amend Sections 3511, 4700, 5050, and 5515 of the Fish and Game Code, relating to fish and game, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 412, as amended, Sher. Fish and game: fully protected species.

(1) Existing law prohibits the taking or possession of any fully protected bird, mammal, reptile, amphibian, or fish, except that the Fish and Game Commission is authorized to permit the collection of those species for necessary scientific research.

This bill would instead authorize the Department of Fish and Game to permit the taking of those species for necessary scientific research, including efforts to recover those species. The bill would require the department, prior to authorizing the take of any of those species, to make an effort to notify affected and interested parties to solicit relevant information and comments on the proposed authorization.

(2) Existing law continuously appropriates money in the Fish and Game Preservation Fund to the department to pay all necessary expenses incurred in carrying out the Fish and Game Code.

By imposing new duties on the department, the bill would make an appropriation.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 3511 of the Fish and Game Code is amended to read:

3511. (a) (1) Except as provided in Section 2081.7, fully protected birds or parts thereof may not be taken or possessed at any time. No provision of this code or any other law shall be construed to authorize the issuance of permits or licenses to take any fully protected bird, and no permits or licenses heretofore issued shall have any force or effect for that purpose. However, the department may authorize the taking of those species for necessary scientific research, including efforts to recover fully protected, threatened, or endangered species, and may authorize the live capture and relocation of those species pursuant to a permit for the protection of livestock. Prior to authorizing the take of any of those species, the department shall make an effort to notify all affected and interested parties to solicit information and comments on the proposed authorization. The notification shall be published in the California Regulatory Notice Register and be made available to each person who has notified the department, in writing, of his or her interest in fully protected species and who has provided an e-mail address, if available, or postal address *to the department*. Affected and interested parties shall have 30 days *after notification is published in the California Regulatory Notice Register* to provide any relevant information and comments on the proposed authorization.

(2) As used in this subdivision, “scientific research” does not include any actions taken as part of specified mitigation for a project, as defined in Section 21065 of the Public Resources Code.

(3) Legally imported fully protected birds or parts thereof may be possessed under a permit issued by the department.

(b) The following are fully protected birds:

- (1) American peregrine falcon (*Falco peregrinus anatum*).
- (2) Brown pelican.
- (3) California black rail (*Laterallus jamaicensis coturniculus*).
- (4) California clapper rail (*Rallus longirostris obsoletus*).
- (5) California condor (*Gymnogyps californianus*).
- (6) California least tern (*Sterna albifrons browni*).
- (7) Golden eagle.
- (8) Greater sandhill crane (*Grus canadensis tabida*).

(9) Light-footed clapper rail (*Rallus longirostris levipes*).

(10) Southern bald eagle (*Haliaeetus leucocephalus leucocephalus*).

(11) Trumpeter swan (*Cygnus buccinator*).

(12) White-tailed kite (*Elanus leucurus*).

(13) Yuma clapper rail (*Rallus longirostris yumanensis*).

SEC. 2. Section 4700 of the Fish and Game Code is amended to read:

4700. (a) (1) Except as provided in Section 2081.7, fully protected mammals or parts thereof may not be taken or possessed at any time. No provision of this code or any other law shall be construed to authorize the issuance of permits or licenses to take any fully protected mammal, and no permits or licenses heretofore issued shall have any force or effect for that purpose. However, the department may authorize the taking of those species for necessary scientific research, including efforts to recover fully protected, threatened, or endangered species. Prior to authorizing the take of any of those species, the department shall make an effort to notify all affected and interested parties to solicit information and comments on the proposed authorization. The notification shall be published in the California Regulatory Notice Register and be made available to each person who has notified the department, in writing, of his or her interest in fully protected species and who has provided an e-mail address, if available, or postal address *to the department*. Affected and interested parties shall have 30 days *after notification is published in the California Regulatory Notice Register* to provide any relevant information and comments on the proposed authorization.

(2) As used in this subdivision, “scientific research” does not include any actions taken as part of specified mitigation for a project, as defined in Section 21065 of the Public Resources Code.

(3) Legally imported fully protected mammals or parts thereof may be possessed under a permit issued by the department.

(b) The following are fully protected mammals:

(1) Morro Bay kangaroo rat (*Dipodomys heermanni morroensis*).

(2) Bighorn sheep (*Ovis canadensis*), except Nelson bighorn sheep (subspecies *Ovis canadensis nelsoni*) as provided by subdivision (b) of Section 4902.

(3) Northern elephant seal (*Mirounga angustirostris*).

- 1 (4) Guadalupe fur seal (*Arctocephalus townsendi*).
- 2 (5) Ring-tailed cat (genus *Bassariscus*).
- 3 (6) Pacific right whale (*Eubalaena sieboldi*).
- 4 (7) Salt-marsh harvest mouse (*Reithrodontomys raviventris*).
- 5 (8) Southern sea otter (*Enhydra lutris nereis*).
- 6 (9) Wolverine (*Gulo luscus*).

7 SEC. 3. Section 5050 of the Fish and Game Code is amended  
8 to read:

9 5050. (a) (1) Except as provided in Section 2081.7, fully  
10 protected reptiles and amphibians or parts thereof may not be taken  
11 or possessed at any time. No provision of this code or any other law  
12 shall be construed to authorize the issuance of permits or licenses  
13 to take any fully protected reptile or amphibian, and no permits or  
14 licenses heretofore issued shall have any force or effect for that  
15 purpose. However, the department may authorize the taking of  
16 those species for necessary scientific research, including efforts to  
17 recover fully protected, threatened, or endangered species. Prior  
18 to authorizing the take of any of those species, the department shall  
19 make an effort to notify all affected and interested parties to solicit  
20 information and comments on the proposed authorization. The  
21 notification shall be published in the California Regulatory Notice  
22 Register and be made available to each person who has notified the  
23 department, in writing, of his or her interest in fully protected  
24 species and who has provided an e-mail address, if available, or  
25 postal address *to the department*. Affected and interested parties  
26 shall have 30 days *after notification is published in the California*  
27 *Regulatory Notice Register* to provide any relevant information  
28 and comments on the proposed authorization.

29 (2) As used in this subdivision, “scientific research” does not  
30 include any actions taken as part of specified mitigation for a  
31 project, as defined in Section 21065 of the Public Resources Code.

32 (3) Legally imported fully protected reptiles or amphibians or  
33 parts thereof may be possessed under a permit issued by the  
34 department.

35 (b) The following are fully protected reptiles and amphibians:

36 (1) Blunt-nosed leopard lizard (*Crotaphytus wislizenii silus*).

37 (2) San Francisco garter snake (*Thamnophis sirtalis*  
38 *tetrataenia*).

39 (3) Santa Cruz long-toed salamander (*Ambystoma*  
40 *macrodictylum croceum*).

1 (4) Limestone salamander (*Hydromantes brunus*).

2 (5) Black toad (*Bufo boreas exsul*).

3 SEC. 4. Section 5515 of the Fish and Game Code is amended  
4 to read:

5 5515. (a) (1) Except as provided in Section 2081.7, fully  
6 protected fish or parts thereof may not be taken or possessed at any  
7 time. No provision of this code or any other law shall be construed  
8 to authorize the issuance of permits or licenses to take any fully  
9 protected fish, and no permits or licenses heretofore issued shall  
10 have any force or effect for that purpose. However, the department  
11 may authorize the taking of those species for necessary scientific  
12 research, including efforts to recover fully protected, threatened,  
13 or endangered species. Prior to authorizing the take of any of those  
14 species, the department shall make an effort to notify all affected  
15 and interested parties to solicit information and comments on the  
16 proposed authorization. The notification shall be published in the  
17 California Regulatory Notice Register and be made available to  
18 each person who has notified the department, in writing, of his or  
19 her interest in fully protected species and who has provided an  
20 e-mail address, if available, or postal address *to the department*.  
21 Affected and interested parties shall have 30 days *after*  
22 *notification is published in the California Regulatory Notice*  
23 *Register* to provide any relevant information and comments on the  
24 proposed authorization.

25 (2) As used in this subdivision, “scientific research” does not  
26 include any actions taken as part of specified mitigation for a  
27 project, as defined in Section 21065 of the Public Resources Code.

28 (3) Legally imported fully protected fish or parts thereof may  
29 be possessed under a permit issued by the department.

30 (b) The following are fully protected fish:

31 (1) Colorado River squawfish (*Ptychocheilus lucius*).

32 (2) Thicktail chub (*Gila crassicauda*).

33 (3) Mohave chub (*Gila mohavensis*).

34 (4) Lost River sucker (*Catostomus luxatus*).

35 (5) Modoc sucker (*Catostomus microps*).

36 (6) Shortnose sucker (*Chasmistes brevirostris*).

37 (7) Humpback sucker (*Xyrauchen texanus*).

38 (8) Owens River pupfish (*Cyprinodon radiosus*).

39 (9) Unarmored threespine stickleback (*Gasterosteus aculeatus*  
40 *williamsoni*).

- 1      (10) Rough sculpin (*Cottus asperrimus*).

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